

IN THE SENATE

SENATE BILL NO. 1026

BY KELLY, WERK, BOCK, LEFAVOUR, BILYEU, SAGNESS, THORSON

AN ACT

RELATING TO COMPREHENSIVE CAMPAIGN FINANCE REFORM; AMENDING TITLE 34, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 26, TITLE 34, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE AN ALTERNATIVE CAMPAIGN FINANCING OPTION, TO CREATE THE IDAHO FAIR ELECTIONS ACT TRUST FUND AND SPECIFY SOURCES OF FUNDING, TO SPECIFY THE TERMS OF PARTICIPATION IN THE IDAHO FAIR ELECTIONS ACT CANDIDATE PROCESS, TO GOVERN THE ADMINISTRATION OF THE IDAHO FAIR ELECTIONS ACT, TO PROVIDE VIOLATIONS AND TO REQUIRE A STUDY REPORT TO THE LEGISLATURE; AMENDING CHAPTER 32, TITLE 31, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 31-3201H, IDAHO CODE, TO PROVIDE AN ADDITIONAL PENALTY ON ANY CIVIL PENALTY FOR PURPOSES OF THE IDAHO FAIR ELECTIONS ACT TRUST FUND; AMENDING SECTION 67-6607, IDAHO CODE, TO CHANGE THE ALLOWABLE CONTRIBUTION TO CANDIDATES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6625, IDAHO CODE, TO INCREASE FINES FOR VIOLATION OF CAMPAIGN CONTRIBUTION REPORTING PROVISIONS, TO DEDICATE RECEIPTS TO THE IDAHO FAIR ELECTIONS ACT TRUST FUND AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 67-6625A, IDAHO CODE, TO INCREASE THE FINE FOR LATE FILING OF REPORTS, TO DEDICATE RECEIPTS TO THE IDAHO FAIR ELECTIONS ACT TRUST FUND AND TO MAKE A TECHNICAL CORRECTION; AMENDING TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 84, TITLE 67, IDAHO CODE, TO CREATE THE COMMISSION ON FAIR ELECTION PRACTICES, TO DEFINE TERMS, TO PROVIDE THE POWERS AND DUTIES OF THE COMMISSION ON FAIR ELECTION PRACTICES AND TO PROVIDE THE SOURCE OF FUNDING FOR THE COMMISSION; PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE, REFERENCING EFFECTIVE DATES INCORPORATED IN SECTIONS OF LAW AND PROVIDING A SUNSET DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 26, Title 34, Idaho Code, and to read as follows:

CHAPTER 26
IDAHO FAIR ELECTIONS ACT

34-2601. SHORT TITLE. This chapter may be known and cited as the "Idaho Fair Elections Act."

1 34-2602. DEFINITIONS. As used in this chapter:

2 (1) "Certified candidate" means a candidate in Idaho running for statewide office, state
3 senator or state representative who chooses to participate in the Idaho fair elections act and who
4 has met the requirements in section 34-2605, Idaho Code, to become a certified candidate.

5 (2) "Commission" means the commission on fair election practices within the office of
6 the secretary of state established by chapter 84, title 67, Idaho Code.

7 (3) "Contribution" means the same as in the definition of "contribution" in section
8 67-6602, Idaho Code.

9 (4) "Nonparticipating candidate" means a candidate running for statewide office, state
10 senator or state representative who does not choose to participate in the Idaho fair elections act
11 and who is not seeking to be certified as an Idaho fair elections act candidate under section
12 34-2605, Idaho Code.

13 (5) "Participating candidate" means a candidate running for statewide office, state senator
14 or state representative who is seeking to be certified as an Idaho fair elections act candidate
15 under section 34-2605, Idaho Code.

16 (6) "Qualifying contribution" means a donation:

17 (a) Of five dollars (\$5.00) in the form of a check, money order or cash, if accompanied
18 by a receipt with the name and address of the contributor and signed by the contributor,
19 payable to the trust fund in support of a candidate;

20 (b) Made by a qualified elector within the state of Idaho and, in the case of a candidate
21 for state senator or state representative, within the legislative district of the candidate;

22 (c) Made during the qualifying period and obtained with the knowledge and approval of
23 the participating candidate; and

24 (d) That is acknowledged by a written receipt providing the name and address of the
25 donor on a form provided by the commission.

26 (7) "Qualifying period" means:

27 (a) For a participating candidate for statewide office the qualifying period begins
28 November 1 immediately preceding the election year and ends at 5:00 p.m. on the tenth
29 Friday preceding the primary election;

30 (b) For a participating candidate for state senator or state representative, the qualifying
31 period begins on January 1 of the election year and ends at 5:00 p.m. on the tenth Friday
32 preceding the primary election.

33 (8) "Seed money contribution" means a contribution of not more than one hundred
34 dollars (\$100) per individual made to a candidate, including every contribution from the
35 candidate or the candidate's family. To be eligible for certification, a candidate may collect
36 and spend only seed money contributions subsequent to becoming a participating candidate
37 as defined in this chapter and throughout the qualifying period. A candidate may not collect
38 or spend seed money contributions after certification as an Idaho fair elections act candidate.
39 The primary purpose of a seed money contribution is to enable a participating candidate to
40 collect qualifying contributions. A seed money contribution must be reported according to the
41 procedures developed by the commission.

42 (9) "Statewide office" means the office of governor, lieutenant governor, secretary
43 of state, attorney general, state treasurer, state controller and state superintendent of public
44 instruction.

45 (10) "Trust fund" means the Idaho fair elections act trust fund established in section
46 34-2604, Idaho Code.

1 34-2603. ALTERNATIVE CAMPAIGN FINANCING OPTION. This chapter
 2 establishes a voluntary alternative campaign financing option available to candidates running
 3 for statewide office, state senator or state representative. This alternative campaign financing
 4 option is available to candidates for elections to be held beginning in the year 2012, if the
 5 commission determines that there are sufficient funds in the trust fund to provide a reasonable
 6 level of funding for the anticipated number of candidates who may qualify to run under this
 7 chapter. If sufficient funds exist in the trust fund to provide funding for the anticipated number
 8 of candidates who may qualify to run under this chapter for some, but not all, offices covered
 9 by this chapter, the commission shall determine which offices shall receive the funding that
 10 year and which shall wait until subsequent election years, based on the following priority:
 11 Idaho state house of representatives, all seats; Idaho state senate, all seats; lieutenant governor;
 12 governor; attorney general; secretary of state; state superintendent of public instruction; state
 13 controller; state treasurer. The commission shall administer this chapter and the trust fund.
 14 Candidates participating in this chapter must also comply with all other election and campaign
 15 laws and rules and regulations.

16 34-2604. IDAHO FAIR ELECTIONS ACT TRUST FUND ESTABLISHED –
 17 SOURCES OF FUNDING. (1) The Idaho fair elections act trust fund is established to finance
 18 the election campaigns of certified candidates and to pay administrative and enforcement costs
 19 of the commission related to this chapter. The trust fund is a special, nonlapsing fund and
 20 any interest generated by the fund shall be credited to the fund. The commission shall keep
 21 a record of all moneys deposited in the trust fund that shall indicate the source from which
 22 the moneys are derived, the interest earned and the activity or program against which any
 23 withdrawal is charged.

24 (2) The following must be deposited into the trust fund:

- 25 (a) The qualifying contributions required under section 34-2605, Idaho Code, and
- 26 any excess qualifying contributions when those contributions are submitted to the
- 27 commission;
- 28 (b) Seed money contributions collected pursuant to section 34-2605, Idaho Code,
- 29 remaining unspent after a candidate has become a certified candidate;
- 30 (c) Trust fund revenues distributed to an Idaho fair elections act candidate and remaining
- 31 unspent after the candidate has lost a primary election or after the general election;
- 32 (d) Other unspent funds distributed to any Idaho fair elections act candidate who does
- 33 not remain a candidate throughout a primary or general election cycle;
- 34 (e) Voluntary donations made directly to the trust fund;
- 35 (f) Fines collected under sections 34-2607, 67-6625 and 67-6625A, Idaho Code;
- 36 (g) Revenue from a surcharge on civil assessments in the district courts of Idaho pursuant
- 37 to section 31-3201H, Idaho Code; and
- 38 (h) Any other funds as designated by the legislature.

39 (3) By October 1 preceding each election year, the commission shall publish an estimate
 40 of the funds in the trust fund available for distribution to the certified candidates during the
 41 upcoming year's election, and shall state whether some or all of the offices shall be qualified to
 42 receive funding as provided in section 34-2603, Idaho Code.

43 (4) All moneys placed in the trust fund are hereby perpetually appropriated to the
 44 secretary of state for administration and allocation as provided in this chapter. All expenditures
 45 from the trust fund shall be paid out in warrants drawn by the state controller upon presentation

of proper vouchers from the secretary of state. The provisions of section 67-3516(3) and (4), Idaho Code, are hereby specifically declared not to apply to the administration of the trust fund.

34-2605. TERMS OF PARTICIPATION. (1) A participating candidate must file a declaration of intent to seek certification as an Idaho fair elections act candidate and comply with the requirements of this chapter. The declaration of intent must be filed with the commission prior to or during the qualifying period, except as provided in subsection (14) of this section, according to forms and procedures developed by the commission. A participating candidate must submit a declaration of intent prior to collecting qualifying contributions under this chapter.

(2) Subsequent to becoming a candidate as defined in section 67-6602, Idaho Code, and prior to certification, a participating candidate may not accept contributions, except for seed money contributions. A participating candidate must limit the candidate's total seed money contributions to the following amounts:

- (a) Fifty thousand dollars (\$50,000) for a candidate for statewide office;
- (b) One thousand dollars (\$1,000) for a candidate for state senator;
- (c) One thousand dollars (\$1,000) for a candidate for state representative.

(3) Participating candidates must obtain qualifying contributions during the qualifying period as follows:

- (a) For a candidate for governor at least two thousand five hundred (2,500) qualified electors of the state of Idaho must support the candidacy by providing a qualifying contribution to that candidate;
- (b) For a candidate for all other statewide offices at least one thousand five hundred (1,500) qualified electors of the state of Idaho must support the candidacy by providing a qualifying contribution to that candidate;
- (c) For a candidate for state senate or state house of representatives at least one hundred fifty (150) qualified electors from the candidate's legislative district must support the candidacy by providing a qualifying contribution to that candidate. A payment, gift or anything of value may not be given, or caused to be given, in exchange for a qualifying contribution.

(4) A participating candidate must submit qualifying contributions to the commission during the qualifying period according to procedures developed by the commission, except as provided in subsection (13) of this section.

(5) Upon receipt of a final submittal of qualifying contributions by a participating candidate, the commission shall determine whether or not the candidate has:

- (a) Signed and filed a declaration of intent to participate in this chapter;
- (b) Submitted the appropriate number of valid qualifying contributions;
- (c) Met the requirements to become a candidate under section 67-6602, Idaho Code;
- (d) Not accepted contributions, except for seed money contributions, and otherwise complied with seed money restrictions; and
- (e) Otherwise met the requirements for certification as set forth in this chapter.

The commission shall certify a candidate complying with the requirements of this section as an Idaho fair elections act candidate as soon as possible and no later than three (3) business days after the candidate's final submittal of qualifying contributions.

Upon certification, a certified candidate must transfer to the trust fund any unspent seed money contributions. A certified candidate must comply with all requirements of this chapter

1 after certification and throughout the primary and general election cycles. Failure to do so is
 2 a violation of this chapter. Written notice of certification or a denial of certification shall be
 3 delivered to the candidate and the opponent, if any.

4 (6) After certification, a certified candidate must limit the candidate's campaign
 5 expenditures and obligations, including outstanding obligations, to the amount of the revenues
 6 distributed to the candidate from the trust fund and may not accept any contributions unless
 7 specifically authorized by the commission. All moneys distributed to certified candidates from
 8 the trust fund must be used for campaign related purposes. The commission shall publish
 9 guidelines outlining permissible campaign related expenditures.

10 (7) The commission shall distribute to certified candidates revenues from the trust fund in
 11 amounts determined under subsection (8) of this section in the following manner:

12 (a) Within three (3) business days after certification, for candidates certified prior to the
 13 tenth Friday before the primary election, revenues from the trust fund must be distributed
 14 as if the candidates were in an uncontested primary election.

15 (b) Within three (3) business days after the tenth Friday before the primary election,
 16 for primary election certified candidates, revenues from the trust fund must be distributed
 17 according to whether the candidate is in a contested or uncontested primary election and
 18 reduced by any amounts previously distributed under subsection (7)(a) of this section.

19 (c) Within three (3) business days after the primary election, for general election certified
 20 candidates, revenues from the trust fund must be distributed according to whether or
 21 not the candidate is in a contested general election. Funds shall not be distributed to
 22 uncontested general election candidates. Funds may be distributed to certified candidates
 23 under this section by any mechanism that is expeditious, ensures accountability and
 24 safeguards the integrity of the trust fund.

25 (8) Each year prior to the election year, the commission shall determine the amount
 26 of funds from the trust fund to be distributed to participating candidates based on the type
 27 of election and office and the historical cost to run a competitive race for that office. The
 28 following shall guide the commission:

29 (a) For contested primary elections, the amount of revenues to be distributed may be
 30 the average amount of campaign expenditures made by candidates for that office during
 31 contested primary election races for the immediately preceding two (2) contested primary
 32 elections.

33 (b) For uncontested primary elections, the amount of revenues distributed is the average
 34 amount of campaign expenditures made by each candidate for that office during all
 35 uncontested primary election races, or for contested races if that amount is lower, for the
 36 immediately preceding two (2) primary elections.

37 (c) For contested general elections, the amount of revenues distributed is the average
 38 amount of campaign expenditures made by each candidate for that office during all
 39 contested general election races for the immediately preceding two (2) contested general
 40 elections.

41 (d) Revenues shall not be distributed to uncontested general election candidates. If the
 42 commission determines that there is insufficient current data on historic expenditures for
 43 a particular office based upon previous contested elections for that office, the commission
 44 may use discretion to determine an appropriate amount.

45 (9) When any campaign finance or election report shows that the sum of a candidate's
 46 expenditures or obligations, or funds raised or borrowed, whichever is greater, reported

1 under section 67-6607, Idaho Code, exceeds the distribution amount under subsection (8)
2 of this section, the commission shall immediately issue to any opposing certified candidate
3 an additional amount equivalent to the reported excess. Matching funds are limited to two
4 (2) times the amount originally distributed under subsection (8)(a) or (8)(c) of this section,
5 whichever is applicable.

6 (10) A candidate running as an independent candidate certified by the tenth Friday
7 preceding the primary election is eligible for revenues from the trust fund in the same amounts
8 and at the same time as an uncontested primary election candidate and a general election
9 candidate as specified in subsections (7) and (8) of this section.

10 (11) The commission shall establish, by rule, procedures for qualification, certification,
11 disbursements of trust fund revenues and return of unspent trust fund revenues for races
12 involving special elections, vacancies, withdrawals or replacement candidates.

13 (12) Notwithstanding any other provision of law, participating and certified candidates
14 shall report all money collected, all campaign expenditures, obligations and related activities
15 to the commission according to procedures developed by the commission. Upon the filing
16 of a report of expenditures under section 67-6607, Idaho Code, thirty (30) days after the
17 primary election in which the candidate was defeated and for all other certified candidates
18 thirty (30) days after the general election, all certified candidates shall return all unspent trust
19 fund revenues to the commission. In developing these procedures, the commission shall utilize
20 existing campaign reporting procedures whenever practicable.

21 (13) The commission may not distribute revenues to certified candidates in excess of
22 the total amount of money deposited in the trust fund established in section 34-2604, Idaho
23 Code. Notwithstanding any other provisions of this chapter, if the commission determines
24 that the revenues in the trust fund are insufficient to meet distributions under subsection (7)
25 or (9) of this section, the commission may permit certified candidates to accept and spend
26 contributions, reduced by any seed money contributions, aggregating no more than five hundred
27 dollars (\$500) per donor per election for candidates for statewide office, and two hundred
28 dollars (\$200) per donor per election for candidates for the state senate and state house of
29 representatives, up to the applicable amounts set forth in subsections (7) and (9) of this section
30 according to the rules adopted by the commission.

31 (14) A candidate who has been denied certification as a certified candidate or the
32 opponent of a certified candidate may challenge a certification decision by the commission as
33 follows:

34 (a) A challenger may appeal to the full commission within three (3) business days of the
35 certification decision. The appeal must be in writing and must set forth the reasons for
36 the appeal.

37 (b) Within five (5) business days after an appeal is properly made by a challenger
38 and after notice is given to the challenger and each and every opponent for the seat
39 or office affected, the commission shall hold a hearing. The challenger has the burden
40 of providing evidence to demonstrate that the commission decision was improper. The
41 commission must rule on the appeal within three (3) business days after the completion of
42 the hearing.

43 (c) A challenger may appeal the decision of the commission rendered pursuant to
44 paragraph (b) of this subsection by commencing an action in district court.

45 (d) A candidate whose certification as a certified candidate is revoked on appeal must
46 return to the commission any unspent revenues distributed from the trust fund. If the

commission or court finds that an appeal was made frivolously or to cause delay or hardship, the commission or court may require the challenger or appellant to pay costs and attorney's fees of the commission, court and opposing parties, if any.

34-2606. ADMINISTRATION OF THE CHAPTER. The commission, which shall exist within the office of the Idaho secretary of state, shall adopt rules to ensure effective administration of this chapter in the manner provided in chapter 52, title 67, Idaho Code. These rules must include, but must not be limited to, procedures for obtaining qualifying contributions, certification as an Idaho fair elections act candidate, circumstances involving special elections, vacancies, withdrawals or replacements, collection of revenues for the trust fund, distribution of trust fund revenues to certified candidates, return of unspent trust fund disbursements and compliance with the Idaho fair elections act.

34-2607. VIOLATIONS. (1) In addition to any other penalties that may be applicable, a person who violates any provision of this chapter is subject to a civil penalty not to exceed ten thousand dollars (\$10,000) per violation, payable to the trust fund. This penalty is recoverable in a civil action. In addition to any fine, for good cause shown, a candidate found in violation of this chapter may be required to return to the trust fund all amounts distributed to the candidate from the trust fund plus interest. If the commission makes a determination that a violation of this chapter has occurred, the commission shall assess a fine or transmit the finding to the attorney general for prosecution. Fines paid under this section shall be deposited in the trust fund. In determining whether or not a candidate is in violation of the expenditure limits of this chapter, the commission may consider as a mitigating factor any circumstances out of the candidate's control.

(2) A person who willfully or knowingly violates any provision of this chapter, or any rules of the commission, or who willfully or knowingly makes a false statement in any report required by this chapter, commits a misdemeanor and, if certified as an Idaho fair elections act candidate, must return to the trust fund all amounts distributed by the trust fund to the candidate.

34-2608. STUDY REPORT. By January 30, 2014, and every four (4) years thereafter, the commission shall prepare and submit to the legislature of the state of Idaho a report documenting, evaluating and making recommendations relating to the administration, implementation, funding and enforcement of the Idaho fair elections act and the Idaho fair elections act trust fund.

SECTION 2. That Chapter 32, Title 31, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 31-3201H, Idaho Code, and to read as follows:

31-3201H. ADDITIONAL PENALTIES. (1) In addition to any other penalty assessment provided by law, a penalty assessment shall be levied in an amount of ten percent (10%) on every fine, penalty and forfeiture imposed and collected by the courts for any civil penalty imposed and collected for a civil traffic violation and fine, penalty or forfeiture for a violation of the motor vehicle statutes, for any local ordinance relating to the stopping, standing or operation of a vehicle or for a violation of the fish and game statutes in title 36, Idaho Code.

(2) If any deposit of bail, bond or deposit for an alleged civil traffic violation is to be made for a violation, the court shall require a sufficient amount to include the assessment prescribed in this section for forfeited bail, bond or deposit. If bail, bond or deposit is forfeited, the court shall transmit the amount of the assessment pursuant to subsection (5) of this section. If bail, bond or deposit is returned, the assessment made pursuant to this section shall also be returned.

(3) After addition of the penalty assessment, the courts may round the total amount due to the nearest one-quarter (1/4) dollar.

(4) The judge may waive all or part of the civil penalty, fine, forfeiture and penalty assessment, except for mandatory civil penalties and fines, the payment of which would work a hardship on the persons convicted or adjudicated or on their immediate families. If a fine or civil penalty is mandatory, the judge may waive only all or part of the penalty assessments prescribed in subsection (1) of this section. If a fine or civil penalty is not mandatory and if a portion of the civil penalty, fine, forfeiture and penalty assessment is waived or suspended, the amount assessed must be divided according to the proportion that the civil penalty, fine, bail or bond, or the penalty assessment represents of the total amount due.

(5) After a determination by the court of the amount due, the court shall transmit, on the last day of each month, the assessments collected pursuant to subsections (1) and (2) of this section and a remittance report of the fines, civil penalties and assessments collected pursuant to subsections (1) and (2) of this section to the county treasurer, except that the magistrates division of the district court shall transmit the assessments and the remittance report of the fines, civil penalties and assessments to the city treasurer.

(6) The appropriate authorities specified in subsection (5) of this section shall transmit the ten percent (10%) penalty assessment prescribed in subsection (1) of this section and the remittance report as required in subsection (5) of this section to the state treasurer on or before the fifteenth day of each month for deposit in the Idaho fair elections act trust fund established in section 34-2604, Idaho Code.

(7) Partial payments of the amount due shall be transmitted as prescribed in subsections (5) and (6) of this section and shall be divided according to the proportion that the civil penalty, fine, bail or bond, or penalty assessment represents of the total amount due.

SECTION 3. That Section 67-6607, Idaho Code, be, and the same is hereby amended to read as follows:

67-6607. REPORTS OF CONTRIBUTIONS AND EXPENDITURES. (a) The political treasurer for each candidate and the political treasurer of each political committee shall file with the secretary of state:

(1) Not more than fourteen (14) days and not less than seven (7) days before the date of a primary election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee prior to the fifteenth day before the primary election;

(2) Not more than thirty (30) days after the date of a primary election in which a candidate or a political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the primary election to and including the tenth day after the primary election;

(3) For all political committees supporting or opposing measures, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the measure or any candidate or made by or against the measure or any candidate shall be filed on the same dates provided in paragraphs (1), (2), (4), (5) and (6) of this subsection;

(4) Not later than October 10 immediately preceding a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including the eleventh day after the date of the primary election and to and including September 30;

(5) Not more than fourteen (14) days and not less than seven (7) days before the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee since and including October 1 and to and including the sixteenth day before the general election, together with a cumulative statement showing all such contributions and expenditures or encumbrances to and including the sixteenth day before the general election; and

(6) Not more than thirty (30) days after the date of a general election in which the candidate or political committee is involved, a statement of all contributions received and all expenditures or encumbrances made by or on behalf of the candidate or political committee to cover the period since the fifteenth day before the general election to and including the tenth day after the general election.

(b) For the first report under this section the reporting period shall cover the period beginning with the first contribution, expenditure, or encumbrance.

(c) Notwithstanding any other reports required under this section, the political treasurer for each candidate and any political committee supporting or opposing a measure shall notify the secretary of state, in writing, of any individual contribution of ~~one thousand~~ five hundred dollars (\$~~1,0~~500) or more, or multiple contributions aggregating one thousand dollars (\$1,000) or more, received by the political treasurer after the sixteenth day before, but more than forty-eight (48) hours before, any primary or general election. This notification shall be made within forty-eight (48) hours after the receipt of such contribution and shall include the name of the candidate or measure, the identification of the contributor, the total amount received in contributions since the end of the previous reporting period, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions in the ~~post-election~~ postelection report.

(d) For all reports required pursuant to this section the secretary of state shall accept the date of a postmark as the date of receipt except for the seven (7) day ~~pre-election~~ preelection reports which must be received by no later than 5:00 p.m. on the seventh day preceding the primary or general election and except for the reports required in subsection (c) of this section which must be received within forty-eight (48) hours after receipt of the contribution or aggregate contributions.

(e) Any reports required to be filed under the provisions of this section may also be filed by means of an electronic facsimile transmission machine or by other electronic means in a format approved by the secretary of state.

SECTION 4. That Section 67-6625, Idaho Code, be, and the same is hereby amended to read as follows:

67-6625. VIOLATIONS – CIVIL FINE – MISDEMEANOR PENALTY – PROSECUTION – LIMITATION – VENUE. (a) Any person who violates the provisions of sections 67-6603 through 67-6614A, 67-6617, 67-6619, 67-6620, 67-6621(a), 67-6624, 67-6629 or 67-6630, Idaho Code, shall be liable for a civil fine not to exceed ~~two hundred fifty one thousand~~ dollars (\$~~251,000~~) if an individual, and not more than ~~two ten thousand five hundred~~ dollars (\$~~2,510,000~~) if a person other than an individual. The burden of proof for such civil liability shall be met by showing a preponderance of the evidence. All fines collected pursuant to this section shall be deposited in the Idaho fair elections act trust fund established in section 34-2604, Idaho Code.

(b) Any person who violates section 67-6605 or 67-6621(b), Idaho Code, and any person who knowingly and willfully violates sections 67-6603 through 67-6614A, 67-6617, 67-6619, 67-6620, 67-6621(a), 67-6624, 67-6629 or 67-6630, Idaho Code, is guilty of a misdemeanor and, upon conviction, in addition to the fines set forth in subsection (a) of this section, may be imprisoned for not more than six (6) months or be both fined and imprisoned.

(c) The attorney general or the appropriate prosecuting attorney may prosecute any violations of this ~~act~~ chapter.

(d) Prosecution for violation of this ~~act~~ chapter must be commenced within two (2) years after the date on which the violation occurred.

(e) Venue for prosecution under the provisions of this chapter shall be in the county of residence of the defendant if the defendant is a resident of the state of Idaho, otherwise venue shall be in Ada county.

SECTION 5. That Section 67-6625A, Idaho Code, be, and the same is hereby amended to read as follows:

67-6625A. LATE FILING OF STATEMENT OR REPORT – FEES. If any person fails to file a report or statement on or before a specified date, he shall be liable in an amount of fifty dollars (\$50.00) per day after the deadline until the statement or report is filed, to the secretary of state. For statements or reports filed more than seven (7) days after the deadline, this amount shall increase to one hundred dollars (\$100) per day beginning on the eighth day after the deadline until the statement or report is filed. Liability need not be enforced by the secretary of state if on an impartial basis he determines that the late filing was not willful and that enforcement of the liability will not further the purposes of the ~~act~~ chapter, except that no liability shall be waived if a statement or report is not filed within five (5) days after receiving written notice of the filing requirement from the secretary of state.

The remedy provided in this section is cumulative and does not exclude any other remedy or penalty prescribed in section 67-6625, Idaho Code. All amounts collected pursuant to this section shall be deposited in the Idaho fair elections act trust fund established in section 34-2604, Idaho Code.

SECTION 6. That Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 84, Title 67, Idaho Code, and to read as follows:

CHAPTER 84 COMMISSION ON FAIR ELECTION PRACTICES

1 67-8401. COMMISSION ON FAIR ELECTION PRACTICES CREATED. There is
 2 hereby created and established in the office of the secretary of state the "Idaho Commission on
 3 Fair Election Practices." Members of the commission shall be appointed as follows:

4 (1) By May 1, 2011, and as needed after that date, the governor, the president of the
 5 senate, and the leaders of the majority and minority parties in the senate, the speaker of the
 6 house of representatives and the leaders of the majority and minority parties in the house
 7 of representatives shall jointly establish and publish a nomination period during which the
 8 members of the public may nominate qualified individuals to the governor for appointment
 9 to the commission. The initial nomination period must close by September 1, 2011.

10 (2) The governor shall appoint the members of the commission, taking into consideration
 11 nominations made during the nomination period. The commission shall be composed of seven
 12 (7) Idaho registered voters. At least one (1) member of the committee shall be a member of
 13 each political party receiving at least ten percent (10%) of the vote in any statewide election
 14 in the previous general election. No more than four (4) members of the commission shall be
 15 members of any one (1) political party. No more than three (3) members of the commission
 16 shall be residents of the same county.

17 (3) The terms of the commission members will be staggered so that the first term of three
 18 (3) commissioners shall expire on December 31, 2012; the first term of two (2) commissioners
 19 shall expire on December 31, 2013; and the first term of two (2) commissioners shall expire on
 20 December 31, 2014.

21 (4) Except as set forth in subsection (3) of this section, the term of office shall be
 22 three (3) years and no commissioner shall serve for more than two (2) consecutive terms. The
 23 commissioners shall elect a chairman for a term of one (1) year.

24 (5) Except as set forth in subsection (3) of this section, the term of office shall
 25 commence on January 1 and expire on December 31.

26 (6) Vacancies shall be filled as terms expire. Each of the commissioners shall hold office
 27 until his or her successor has been appointed and qualified.

28 (7) A majority of the members of the commission shall constitute a quorum for the
 29 transaction of all business and the carrying out of the duties of the commission. Before
 30 entering on the discharge of their duties as members of the commission, each member shall
 31 take and subscribe to the oath of office prescribed for state officers.

32 (8) Each member of the commission shall be compensated as provided by section
 33 59-509(d), Idaho Code.

34 (9) Members of the commission may be removed by the governor for substantial neglect
 35 of duty, gross misconduct in office, inability to discharge the powers and duties of office or any
 36 violation of the provisions of this chapter, after written notice and opportunity for a response.

37 67-8402. DEFINITIONS. In this chapter, the following terms shall have the following
 38 meanings:

39 (1) "Commission" means the Idaho commission on fair election practices.

40 (2) "Trust fund" means the Idaho fair elections act trust fund established in section
 41 34-2604, Idaho Code.

42 67-8403. POWERS AND DUTIES OF THE COMMISSION ON FAIR ELECTION
 43 PRACTICES. The commission shall have the following powers and duties:

44 (1) The commission shall administer the Idaho fair elections act trust fund.

1 (2) The commission shall adopt rules to ensure effective administration of this chapter.
2 The rules must include, but must not be limited to, procedures for obtaining qualifying
3 contributions, certification of candidates under the Idaho fair elections act, circumstances
4 involving special elections, vacancies, withdrawals or replacement, collection of revenues for
5 the trust fund, distribution of trust fund revenues in a timely manner to certified candidates,
6 return of unspent trust fund disbursements and compliance with the Idaho fair elections act.

7 (3) By September 1 preceding each election year, the commission shall publish an
8 estimate of the revenue in the fund available for distribution to the certified candidates during
9 the upcoming year's election, and shall state whether some or all of the offices shall be covered
10 by the Idaho fair elections act pursuant to section 34-2603, Idaho Code.

11 (4) The commission shall publish guidelines outlining permissible campaign related
12 expenditures.

13 (5) The commission shall distribute to certified candidates revenues from the trust fund in
14 amounts determined under section 34-2605, Idaho Code.

15 (6) The commission shall work with the secretary of state to ensure the timely public
16 access to campaign finance data, including storing and dissemination of information.

17 (7) The commission shall hear contests over eligibility for funding under chapter 26, title
18 34, Idaho Code.

19 (8) The commission shall adopt any other rules necessary for administration of this
20 chapter and the Idaho fair elections act, chapter 26, title 34, Idaho Code.

21 67-8404. FUNDING. The funding for the expenses of administering the commission
22 shall be from the Idaho fair elections act trust fund in addition to any additional funds
23 appropriated by the legislature.

24 SECTION 7. The provisions of this act are hereby declared to be severable and if any
25 provision of this act or the application of such provision to any person or circumstance is
26 declared invalid for any reason, such declaration shall not affect the validity of the remaining
27 portions of this act.

28 SECTION 8. This act shall be in full force and effect on and after December 1, 2010,
29 unless the context of a section specifically provides another effective date; and Section 2 of this
30 act shall be null, void and of no force and effect on and after January 1, 2021.